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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,011	01/29/2001	Nan Feng	JP919990263-US1	9243
7590 01/23/2006			EXAMINER	
Anne Vachon Dougherty 3173 Cedar Road Yorktown Heights, NY 10598			CHOUDHURY, AZIZUL Q	
			ART UNIT	PAPER NUMBER
			2145	
DATE MAILED: 01/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/772,011	Applicant(s) FENG ET AL.	
	Examiner Azizul Choudhury	Art Unit 2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Office Action

This office action is in response to the correspondence received on September 12, 2005.

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kenner (US Pat No: 6,112,239).

1. With regards to claims 1, 11 and 20, Kenner teaches, a method (a method is able to be an apparatus and a program) for balancing load among a plurality of mirror servers, wherein a user may select and get access to any one of said plurality of mirror servers within an identical web page (Kenner teaches distributing load

amongst distributed mirror servers (column 5, lines 5-19, Kenner)), said method comprising the steps of:

- a. When said web page is access by a client, transmitting not only said web page but also a predetermined script to said client (Client-side software is used to determine which server to connect to (column 5, line 60 – column 6, line 3, Kenner), the software can be downloaded into the client (column 8, lines 27-32, Kenner));
 - b. Automatically executing said script at said client so as to respectively create connections with each of said plurality of mirror servers and measure respective response times (The software can be run automatically (column 8, lines 37-41, Kenner));
 - c. Selecting a mirror server having the shortest response time for the user to access (The software runs tests and determines how each mirror site ranks for the client the software is installed in. The appropriate mirror site can then be used to reduce response time (column 5, line 43 – column 6, line 3, Kenner)).
2. With regards to claims 2 and 12, Kenner teaches, the method (a method is able to be an apparatus) wherein said predetermined script is transmitted together with said web page to said client (Client-side software is used to determine which server to connect to (column 5, line 60 – column 6, line 3, Kenner), the software can be downloaded into the client (column 8, lines 27-32, Kenner). The server

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providing the software can also provide other data (column 8, lines 13-19, Kenner));

3. With regards to claim 3, Kenner teaches, the method wherein said automatically executing script comprises the steps of:
 - a. Calling a predetermined engine by said client (The software consists of a configuration utility (column 5, lines 39-40, Kenner)); and
 - b. Executing said script by said engine, comprising creating connections with each of said plurality of mirror servers and measuring respective response times (Tests are performed (column 5, lines 43-60, Kenner)).
4. With regards to claims 4 and 13, Kenner teaches, the method (a method is able to be an apparatus) wherein said executing said script is performed in a multi-thread manner for said plurality of mirror servers (Modern processors and operating systems enable multithreaded execution)
5. With regards to claims 5 and 14, Kenner teaches, the method (a method is able to be an apparatus) further comprising sending the client information to the mirror servers being connected (It is inherent that web browsers send IP information to servers and column 18, lines 20-21, Kenner).

6. With regards to claims 6 and 15, Kenner teaches, the method (a method is able to be an apparatus) wherein said client information includes at least one of IP address, domain name, platform name, platform version, and browser type of said client (It is inherent that web browsers send IP information to servers and column 18, lines 20-21, Kenner).
7. With regards to claims 7 and 16, Kenner teaches, the method (a method is able to be an apparatus) wherein said connections are created through proxies (Figure 1, elements 14 and 18, Kenner).
8. With regards to claims 8 and 17, Kenner teaches, the method (a method is able to be an apparatus) wherein said script can be re-started by said user (User is allowed to re-rerun the utility (column 14, lines 18-19, Kenner)).
9. With regards to claims 9 and 18, Kenner teaches, the method (a method is able to be an apparatus) further comprising comparing respective response times of said plurality of mirror servers (Kenner's design allows for a variety of tests (column 10, line 5 – column 11, line 65, Kenner)).
10. With regards to claims 10 and 19, Kenner teaches, the method (a method is able to be an apparatus) further comprising the steps of:

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- a. Notifying said user of the mirror server having the shortest response time (column 5, lines 52-60, Kenner);
- b. Receiving user input selecting one of said mirror servers as the selected mirror server (column 9, lines 58-63, Kenner); and
- c. Establishing access for the user to the mirror server (column 6, lines 4-50, Kenner).

Response to Remarks

The amendment received on September 12, 2005 has been carefully considered and is deemed persuasive. In response, the finality has been withdrawn, a new search has been conducted and a new office action has been compiled.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ballard (US Pat No: 6,078,960).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is (571) 272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AC



JASON CARDONE
SUPERVISORY PATENT EXAMINER